

**UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE**

Office of Business Liaison

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Reverification of Eligibility to Work

What is reverification?

Reverification is the process required of employers to review an employee's eligibility to work in any of the following situations:

- where in Section 1 of the Form I-9 an employee checked the lowest box indicating that he or she is an alien authorized to work until [an inserted expiration date] and/or
- where for Section 2 of the Form I-9 an employee presented a List A or List C document that bears an expiration date indicating that **work status** has expired or
- where an employee is rehired within 3 years of the original date of completion of the Form I-9 and his or her basis for work authorization is different from that listed on the original form

What is the purpose of reverification?

The purpose of this process is to document, using Section 3 of the original **or** a new Form I-9, that employees whose Forms I-9 contain expiration dates in Section 1 and/or Section 2 continue to be eligible to work beyond those dates **or** that employees rehired within 3 years of completion of the original Form I-9 retained on file continue to be work authorized.

What must be reverified?

Section 1 Status and work authorization

An employee declares his or her status by checking one of three boxes in Section 1 of the Form I-9. If the lowest box is checked, indicating that the individual is a nonimmigrant with temporary work authorization, he or she must indicate the date on which that work authorization will expire. As of that expiration date, the employer must have reverified that the individual continues to be eligible to work.

Section 2 Work authorization document

An employee must present an original document from List A or C (see reverse side of the Form I-9) to the employer. Many of these documents bear expiration dates. In cases where the document indicates that work authorization will expire, reverification is necessary to ensure that the employee continues to possess documentation of work eligibility that is both **current** and **acceptable** under the law. In cases where expiration of the document does not mean that work authorization will expire, such as where a **Form I-551 Resident Alien Card or Permanent Resident Card** has been presented, reverification is **not** necessary. Likewise, List B documents need not be reverified.

Documents that must be reverified include (but are not limited to):

- I-551 ADIT stamp in passport or on Form I-94
- EAD I-688A or I-688B
- EAD I-766

Documents that do not require reverification include (but are not limited to):

- Any List B document
- Form I-551 (even if the card bears an expiration date)

When must reverification be done?

As stated above, reverification must be done on or before the relevant expiration date. In cases where applications for extension of work authorization must be adjudicated, employers are encouraged to alert employees 90 days in advance of expiration dates in order to ensure uninterrupted work eligibility. The fact that an extension or other application that would confer work authorization is pending on an expiration date is not relevant to reverification. Such applications must be approved **and the new documents in possession** in order for an employee to continue working past the expiration date.

How may it be reverified?

Employers may reverify employment authorization by using Section 3 of the original Form I-9 or by having an employee complete a new Form I-9. Whichever method is chosen, employers should use the same method for all affected employees.

Section 1- Information

Where an employee has identified himself or herself as *an alien authorized to work until [an inserted date]* by checking the lowest of the three boxes in Section 1, the employer is on notice that the employee may be ineligible to continue working after that date. Therefore, **on or before that expiration date**, the employer must reverify by requiring the employee to present evidence of current work authorization. In cases where an employee cannot produce a List A or List C document, **the employer is on notice that the individual is not eligible to work past the Section 1 expiration date**. In this situation, an employer who continues to employ the individual may be subject to the serious charge of **knowingly continuing to employ** an alien who is not authorized to work in the United States.

Common examples:

- An individual whose Section 1 expiration date is approaching may present any List A or List C document to reverify.
- An individual with a Section 1 expiration date, who has presented an unrestricted Social Security card for Section 2 purposes, is entitled to submit the unrestricted Social Security card again to reverify.

Section 2- Information

Where an employee submitted a work authorization document from List A or C at the time of hire that contained an expiration date (does not apply to I-551 expiration dates), the employer must require that employee to produce a current and acceptable document, on or before the expiration date, which demonstrates the employee's eligibility to continue employment past the expiration date. Although the employee **may** choose to present the same type of document (bearing a new future expiration date) presented originally for Section 2 purposes, that is not required. An employer must accept for reverification purposes any document that would have been acceptable originally for Section 2 purposes.

Common example: An individual who presented an EAD (Form I-688B or I-766) with a future expiration date (List A) for Section 2 can present an unrestricted Social Security (List C) card for Section 3.

NOTE:

- It is common for Section 1 and Section 2 expiration dates to be the same. In cases where Section 1 and Section 2 expiration dates must be reverified at the same time, presentation by the employee of any List A or C document will satisfy the requirement to reverify expiration dates from both Sections.
- In cases where Sections 1 and 2 include different expiration dates, the employer should reverify as of the earlier of the two dates. Where the employer becomes aware that an employee's status has changed, such as from nonimmigrant to permanent resident, reverification can take place at the time of change or adjustment of status, provided that it precedes the expiration date.

RECEIPT RULE *NOTE CHANGES!*

INS published changes to the receipt rule on September 30, 1997, and on February 9, 1999 (amended 3/9/99).

Employers may accept a receipt acknowledging application for a List A or C document only in cases where the original card has been lost, stolen, or misplaced. A receipt acknowledging application for extension of work authorization (for which a new List A or List C document will be issued), or for change or adjustment of status, is **not** acceptable. In such cases, it is useful to keep in mind the distinction above between work eligibility and a document that proves work eligibility. Where status allowing employment remains current, but the document that demonstrates that status is unavailable, a receipt is an acceptable substitute. Where the status itself has expired, requiring adjudication of an extension of work eligibility, or upon initial application for employment authorization, a receipt is not acceptable.

Common example: An EAD application, e.g. Form I-765 to obtain a new Form I-688B or I-766, generally grants work eligibility for one year. Upon expiration of the card, the work eligibility expires and a new application for extended work status must be submitted to the INS. Accordingly, a receipt acknowledging such an application is unacceptable for reverification purposes.

CHANGES!

- A Form I-94 with an I-551 stamp, to which INS has affixed the bearer's photograph, should be treated as a receipt. The employee must present the actual I-551 ("green card") within one year.
- Form I-94 indicating refugee status should be treated as a receipt. Employee must present an unexpired List A or combination of List B and C documents within 90 days.
- A receipt is never acceptable for employment lasting less than 3 working days.
- A receipt is acceptable for reverification in the same manner as for original I-9 purposes.

REHIRED EMPLOYEES

(alternative to a new Form I-9 for employees rehired within 3 years of original date of hire)

Reverification is required for employees hired whose status and/or basis of work authorization has changed since the original Form I-9 was completed. For reverification, Section 3 of the original Form I-9 must contain the following three data elements: (1) date of rehire (2) description, number and expiration date (if applicable) of documents presented by the rehired employee to demonstrate current work eligibility and (3) signature of employer/reviewer and date of document review.

Common examples:

- An employee with temporary work authorization presented an employment authorization document (EAD) Form I-688B during the original employment eligibility verification process. As a rehire whose status has been adjusted since the initial hire date to permanent resident, he or she presents **either** a Resident Alien Card Form I-551 (List A) **or** a state driver's permit (List B) and unrestricted Social Security card (List C).
- A foreign student employed for post-curricular practical training originally presented an I-688B EAD (List A). Upon rehire, the individual presents an unexpired foreign passport and Form I-94 indicating H-1B status (List A).

Updating is required for employees whose (unexpired) status and/or basis of work authorization is the same as indicated on the original Form I-9. For reverification, Section 3 of the originally completed Form I-9 must contain the following data elements: (1) date of rehire and (2) signature of employer and date.

Common example: A permanent resident employee presented a state driver's permit (List B) and unrestricted Social Security card (List C) during the original employment eligibility verification process. Since an individual's permanent resident status does not expire, this employee is not required to present any documents as a rehire.